6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2016-0601; FRL-9961-32-Region 4]

Air Plan Approval and Designation of Areas; KY; Redesignation of the Kentucky Portion of the Cincinnati-Hamilton 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 26, 2016, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Kentucky portion of the tri-state Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area (hereinafter referred to as the "Cincinnati-Hamilton, OH-KY-IN Area" or "Area") to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve the portions of the State Implementation Plan (SIP) revision containing a maintenance plan and base year emissions inventory for the Area. EPA is proposing to approve the Commonwealth's base year emissions inventory for the Kentucky portion of the Area; to approve the Commonwealth's plan for maintaining attainment of the 2008 8-hour ozone NAAQS in the Area, including motor vehicle emission budgets (MVEBs) for nitrogen oxides (NOx) and volatile organic compounds (VOC) for the years 2020 and 2030 for the Kentucky portion of the Area; and to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. Through separate actions, EPA has approved the redesignation request and maintenance plan for the Ohio

portion of the Area and has proposed to approve the redesignation request and maintenance plan for the Indiana portion of the Area.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-0601 at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Richard Wong may be reached by phone at (404) 562-8726 or via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What are the Actions EPA is Proposing to Take?

EPA is proposing to take the following three separate, but related, actions: (1) to approve the base year emissions inventory for the 2008 8-hour ozone NAAQS for the Kentucky portion of the Area and incorporate it into the Kentucky SIP; (2) to approve Kentucky's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated

MVEBs for the Kentucky portion of the Area, and incorporate it into the SIP; and (3) to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The Cincinnati-Hamilton, OH-KY-IN Area is composed of portions of Boone, Campbell, and Kenton Counties in Kentucky; Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and a portion of Dearborn County in Indiana. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

Based on the 2008 8-hour ozone NAAQS nonattainment designation for the Area, Kentucky was required to develop a nonattainment SIP revision addressing certain CAA requirements. Among other things, the Commonwealth was required to submit a SIP revision addressing base year emissions inventory requirements pursuant to CAA section 182(a)(1) for its portion of the Area. EPA is proposing to approve Kentucky's 2011 base year inventory as satisfying section 182(a)(1).

EPA is also proposing to approve Kentucky's maintenance plan for its portion of the Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status). The maintenance plan is designed to keep the Area in attainment of the 2008 8-hour ozone NAAQS through 2030. The maintenance plan includes 2020 and 2030 MVEBs for NOx and VOC for the Kentucky portion of the Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the Kentucky SIP.

EPA also proposes to determine that the Kentucky portion of the Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the portions of

Boone, Campbell, and Kenton Counties within the Kentucky portion of the Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the MVEBs for the Kentucky portion of the Area. The Adequacy comment period began on December 6, 2016, with EPA's posting of the availability of Kentucky's submissions on EPA's Adequacy website (https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa#cincinnati-hamilton-(KY)). The Adequacy comment period for these MVEBs closed on January 5, 2017. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, today's notice of proposed rulemaking is in response to Kentucky's August 26, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area to attainment for the 2008 8-hour ozone NAAQS.[1]

II. What is the Background for EPA's Proposed Actions?

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is

[1] While Kentucky's transmittal letter is dated August 5, 2016, the submission was not officially provided to EPA for action until August 26, 2016.

attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15.

Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008-2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Cincinnati-Hamilton, OH-KY-IN Area was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.318. Areas that were designated as marginal nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012-2014 monitoring data. On May 4, 2016 (81 FR 26697), EPA published its determination that the Area had attained the 2008 8-hour ozone NAAQS by the attainment deadline.

III. What are the Criteria for Redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) the Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the "Nichols Memorandum"); and

10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA Proposing These Actions?

On August 26, 2016, Kentucky requested that EPA redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing the base year inventory and the maintenance plan for the Kentucky portion of the Area. As mentioned above, on May 4, 2016 (81 FR 26697), EPA determined that the entire Cincinnati-Hamilton, OH-KY-IN Area attained the 2008 8-hour ozone

NAAQS by the attainment date based on 2012-2014 data. On December 16, 2016 (81 FR 91035), in redesignating the Ohio portion of the Area to attainment, EPA determined that the entire Area continued to attain the standard based on 2013-2015 data.[2] EPA's evaluation indicates that the Kentucky portion of the Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. Also, based on Kentucky's August 26, 2016, submittal, EPA is proposing to determine that the base year emissions inventory, included in Kentucky's August 26, 2016, submittal, meets the requirements under CAA section 182(a)(1). Approval of the base year emissions inventory is a prerequisite to redesignating an ozone nonattainment area to attainment. As a result of these proposed findings, EPA is proposing to take the actions summarized in section I of this notice.

V. What is EPA's Analysis of the Redesignation Request and August 26, 2016, SIP Submission?

As stated above, in accordance with the CAA, EPA proposes to: (1) approve the 2008 8-hour ozone NAAQS base year emissions inventory for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area and incorporate it into the SIP; (2) approve Kentucky's 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Kentucky SIP; and (3) redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Kentucky portion of the Area in section V.B, below.

A. Emissions Inventory

[2] EPA has also proposed to redesignate the Indiana portion of the Area. *See* 81 FR 95081 (December 27, 2016).

Section 182(a)(1) of the CAA requires states to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in each ozone nonattainment area. The section 182(a)(1) base year emissions inventory is defined in the SIP Requirements Rule[3] as "a comprehensive, accurate, current inventory of actual emissions from sources of NOx and VOC emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)." *See* 40 CFR 51.1100(bb). The inventory year must be selected consistent with the baseline year for an RFP plan as required by 40 CFR 51.1110(b),[4] and the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1100(cc) [5] and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(a), (c), (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(d).

Kentucky selected 2011 as the base year for the CAA section 182(a)(1) emissions inventory which is the year corresponding with the first triennial inventory under 40 CFR part 51, subpart A. The emissions inventory is based on data developed and submitted by DAQ to

[3] On March 6, 2015, EPA finalized a rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264.

[4] 40 CFR 51.1110(b) states that "at the time of designation for the 2008 ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of this part. States may use an alternative baseline emissions inventory provided the state demonstrates why it is appropriate to use the alternative baseline year, and provided that the year selected is between the years 2008 to 2012."

[5] "Ozone season day emissions" is defined as "an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity." *See* 40 CFR 51.1100(cc).

EPA's 2011 National Emissions Inventory (NEI), and it contains data elements consistent with the detail required by 40 CFR part 51, subpart A.[6]

Kentucky's emissions inventory for its portion of the Area provides 2011 anthropogenic emissions data for NOx and VOC for the following general source categories: point (Electric Generating Units and Non-Electric Generating Units and aircraft emissions),[7] area, non-road mobile, on-road mobile. All emissions information provided is based on the partial county boundaries, through the applicable census tracts, that comprise the Kentucky portion of the Area. Table 1, below, provides a summary of the emissions inventory.

Table 1. 2011 Point, Area, Non-Road Mobile, and On-Road Mobile Sources Emissions for the Kentucky Portion of the Area (tons per typical summer day (tsd))

County*	Point**		Area		Non-Road Mobile		On-Road Mobile	
	NOx	VOC	NOx	VOC	NOx	VOC	NOx	VOC
Boone County	9.23	2.15	0.43	2.66	1.06	1.49	6.90	3.30
Campbell County	0.17	0.22	0.49	1.29	0.38	0.40	4.30	2.05
Kenton County	0.01	0.51	1.02	2.51	0.77	0.62	6.53	3.12

*Nonattainment portion of each county.
**Includes aircraft emissions.

[6] Data downloaded from the EPA EIS from the 2011 NEI was subjected to quality assurance procedures described under quality assurance details under *2011 NEI Version 1 Documentation* located at: http://www.epa.gov/ttn/chief/net/2011inventory.html#inventorydoc. The quality assurance and quality control procedures and measures associated with this data are outlined in the State's EPA-approved Emission Inventory Quality Assurance Project Plan.

[7] The emissions inventories in Kentucky's submission identify aircraft emissions as a standalone category and refer to these emissions as "air emissions" for consistency with the inventories provided by Indiana and Ohio for their respective portions of the Area. Indiana Department of Environmental Management (IDEM) provided aircraft emissions data for Kentucky, and Kentucky included these emissions in Boone County where the Cincinnati/Northern Kentucky International Airport is located. EPA has included these emissions within the point source category per the AERR.

NOx and VOC emissions were calculated for a typical summer July day, taking into account the seasonal adjustment factor for summer operations. More detail on the inventory emissions for individual sources categories is provided below and in Appendix C-1 to Kentucky's August 26, 2016, SIP submittal.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. The inventory contains actual point source emissions data for facilities located within the nonattainment boundary for the Kentucky portion of the Area based on the Kentucky Emissions Inventory database.[8]

Area sources are small emission stationary sources which, due to their large number, collectively have significant emissions (e.g., dry cleaners, service stations). Emissions for these sources were estimated by multiplying an emission factor by such indicators of collective emissions activity as production, number of employees, or population. Indiana Department of Environmental Management (IDEM) provided area source emissions data for each county data for in the entire Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. Kentucky developed its on-road emissions inventory using EPA's Motor Vehicle Emissions Simulator (MOVES) model with input data from the Ohio-Kentucky-Indiana Regional Council of Governments (OKI).[9] County level on-road modeling was conducted using county-specific vehicle population and other local data. Kentucky developed its inventory

[8] As discussed above, EPA has included aircraft emissions within the point source category per the AERR.
[9] Kentucky used *MOVES2014 technical guidance: Using MOVES to Prepare Emission Inventories in State Implementation Plans and Transportation Conformity, EPA-420-b-15-007* (January 2015).

according to the current EPA emissions inventory guidance for on-road mobile sources using MOVES version 2014.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (e.g., lawn mowers, construction equipment, and railroad locomotives). IDEM provided non-road mobile source emissions data for each county in the Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

For the reasons discussed above, EPA proposes to determine that Kentucky's emissions inventory meets the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2008 8-hour ozone NAAQS. Approval of Kentucky's redesignation request is contingent upon EPA's final approval of the base year emissions inventory for the 2008 8-hour ozone NAAQS.

B. Redesignation Request and Maintenance Demonstration

In accordance with the CAA, EPA proposes to approve the 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Kentucky SIP and to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under the CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs in this section.

Criteria (1) - *The Cincinnati-Hamilton, OH-KY-IN Area has attained the 2008 8-hour ozone NAAQS.*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i)). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On May 4, 2016 (81 FR 26697), EPA determined that the Cincinnati-Hamilton, OH-KY-IN Area attained the 2008 8-hour ozone NAAQS by the attainment date. In that action, EPA reviewed complete, quality-assured, and certified monitoring data from monitoring stations in the Area for the 2008 8-hour ozone NAAQS for 2012 through 2014 and determined that the design values for each monitor in the Area are less than the standard of 0.075 ppm for that time period. Further, on December 16, 2016, in association with the redesignation of the Ohio portion of the Area, EPA determined that the Area continued to attain the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified monitoring data from 2013 through 2015. *See*

81 FR 91035. The fourth-highest 8-hour ozone values at each monitor for 2012, 2013, 2014, 2015, and the 3-year averages of these values (i.e., design values), are summarized in Table 2, below. The 3-year design value for 2013-2015 for the Cincinnati-Hamilton, OH-KY-IN Area is 0.071 ppm,[10] which meets the NAAQS.

Table 2. Monitoring Data and Design Value Concentrations for the Cincinnati-Hamilton, OH-KY-IN Area (ppm)

Location	Site ID	4th Highest 8-hour Ozone Value (ppm)				3-Year Design Values (ppm)	3-Year Design Values (ppm)
		2012	2013	2014	2015	2012-2014	2013-2015
Boone, KY	21-015-0003	0.074	0.059	0.062	0.062	0.065	0.061
Campbell, KY	21-037-3002	0.084	0.072	0.071	0.071	0.075	0.071
Butler, OH	39-017-0004	0.083	0.068	0.070	0.070	0.073	0.069
Butler, OH	39-017-0018	0.084	0.068	0.069	0.070	0.073	0.069
Butler, OH	39-017-9991	0.085	0.069	0.069	0.068	0.074	0.068
Clermont, OH	39-025-0022	0.091	0.066	0.068	0.070	0.075	0.068
Clinton, OH	39-027-1002	0.086	0.064	0.070	0.070	0.073	0.068
Hamilton, OH	39-061-0006	0.087	0.069	0.070	0.072	0.075	0.070
Hamilton, OH	39-061-0010	0.083	0.064	0.073	0.070	0.073	0.069
Hamilton, OH	39-061-0040	0.082	0.069	0.069	0.071	0.073	0.069
Warren, OH	39-165-0007	0.080	0.067	0.071	0.071	0.072	0.069

[10] The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

For this proposed action, EPA has reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[11] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, the Commonwealth of Kentucky has committed to continue monitoring in the Kentucky portion of the Area in accordance with 40 CFR part 58.

Criteria (2) – ***Kentucky has a fully approved SIP under section 110(k) for the Kentucky portion of the Area;*** **and Criteria (5) –** ***Kentucky has met all applicable requirements under section 110 and part D of title I of the CAA.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Kentucky has met all applicable SIP requirements for the Kentucky portion of the Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that, if EPA approves the base year emissions inventory, the Kentucky SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under

[11] This data is available at EPA's air data website: http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.

section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. *The Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has met all applicable requirements under section 110 and part D of the CAA.*

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's

interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110(a)(2) elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e., for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the general nonattainment plan requirements for nonattainment areas. Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. In marginal ozone nonattainment area such as the Cincinnati-Hamilton, OH-KY-IN Area, the specific requirements of section 182(a) apply in lieu of the demonstration of attainment and contingency measures required by section 172(c). *See* 42 U.S.C. 7511a(a). The 182(a) elements and the remaining 172(c) elements

that apply to the Area are addressed below. A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Section 172(c) Requirements. Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in a nonattainment area, and section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources in the area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995). Kentucky has demonstrated that the Area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the Commonwealth need not have a fully approved part D NSR program prior to approval of the redesignation request. Kentucky's PSD program will become effective in the Area upon redesignation to attainment.

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NOx and VOC emitted within the boundaries of the ozone nonattainment area. Kentucky provided a base year emissions inventory for its portion of the Area to EPA in the August 26, 2016, SIP submission to address the section 182(a)(1) requirements for the Kentucky portion of the Area. As discussed in Section V.A above, EPA is proposing to approve Kentucky's 2011 base year emissions inventory in today's proposed action. Kentucky's section 182(a)(1) inventory must be approved before EPA can take final action to approve the Commonwealth's redesignation request for the Kentucky portion of the Area.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT "fix up" because the Area was designated as nonattainment after the enactment of the 1990 CAA amendments. Furthermore, the Commonwealth complied with this requirement under the 1-hour ozone NAAQS. *See* 59 FR 32343 (June 23, 1994) and 60 FR 31087 (June 13, 1995).

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Kentucky portion of the Area is not subject to

the section 182(a)(2)(B) requirement because it was designated as nonattainment after the enactment of the 1990 CAA amendments and did not have an I/M program in place prior to those amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. As discussed above, Kentucky has a PSD program and has demonstrated that the Area will be able to maintain the standard without part D NSR in effect. Therefore, EPA concludes that the Commonwealth need not have a fully approved part D NSR program prior to approval of the redesignation request.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled Criteria (4)(e), *Verification of Continued Attainment*, the Commonwealth will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. Kentucky provided a SIP revision to EPA on November 18, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on January 28, 2016 (81 FR 4896), EPA published a final rule approving this SIP revision.

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded projects conform to

the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements[12] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Kentucky has an approved conformity SIP for the Kentucky portion of the Area. *See* 76 FR 20780 (April 21, 2010). Thus, EPA proposes that the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has a fully approved applicable SIP under section 110(k) of the CAA.

EPA has fully approved the Commonwealth's SIP for the Kentucky portion of the Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation with the exception of the 182(a)(1) emissions inventory. In today's proposed action, EPA is

[12] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

proposing to approve the Commonwealth's emissions inventory for the Kentucky portion of the Area and incorporate it into the Kentucky SIP.

EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Kentucky has adopted and submitted, and EPA has approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS (78 FR 14681, March 7, 2013, and 79 FR 65143, November 3, 2014).

As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. With the exception of the section 182(a)(1) emissions inventory requirement, which is addressed in this proposal, EPA has approved all part D requirements applicable for purposes of this proposed redesignation.

Criteria (3) - *The air quality improvement in the Cincinnati-Hamilton, OH-KY-IN Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions.*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section

107(d)(3)(E)(iii). EPA has preliminarily determined that Kentucky has demonstrated that the observed air quality improvement in the Cincinnati-Hamilton, OH-KY-IN Area is due to permanent and enforceable reductions in emissions resulting from federal measures and is not the result of unusually favorable weather conditions.

An analysis performed by the Lake Michigan Air Directors Consortium (LADCO) supports the Commonwealth's conclusion that the improvement in air quality is due to permanent and enforceable emission reductions and not favorable meteorology.[13] A classification and regression tree (CART) analysis was conducted with 2000 through 2014 data from three ozone monitoring sites in the Area. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions. Regression trees were developed for the three monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed the resulting trends in ozone concentrations declining over the period examined, supporting the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

In addition, EPA evaluated temperatures and precipitation during the 2012-2015 ozone seasons for comparison to long-term climatological normals. Table 3, below, provides temperature and precipitation data for the Area for the 2012-2015 period. This data was obtained

[13] Ohio included the LADCO analysis as part of its redesignation request and associated SIP revision for the Ohio portion of the Area. These materials are available at Docket No. EPA-R05-OAR-2016-0269.

from the National Oceanic and Atmospheric Administration's National Centers for Environmental Information (NCEI). Specifically, Table 3 provides overall average and average maximum ozone season temperatures and total ozone season precipitation; deviation from the mean 1948-2000 base period ozone season temperature and precipitation (termed the "anomaly"); and the rank of each year from the 69-year (1948-2016) period. A rank of 69 is given to the hottest or wettest year.

Table 3. Cincinnati, Ohio Temperature and Precipitation Ozone Season (May-September) Data

	Years			
	2012	**2013**	**2014**	**2015**
Average May-September Temperature [°F]	73.0	71.1	70.6	71.4
Anomaly from the long-term average [70.3 °F]	2.7	0.8	0.3	1.1
Rank [since 1948, scale of 1-69] 1=coolest 69=warmest	65	47	35	52
Average maximum May-September temperature [°F]	84.5	80.7	80.6	81.6
Anomaly from the long-term average maximum [81 °F]	3.5	-0.3	-0.4	0.6
Rank [since 1948, scale of 1-69] 1=coolest 69=warmest	67	29	28	42
Precipitation [inches]	15.61	24.04	19.05	18.64
Anomaly from the long-term average [18.27 inches]	-2.66	5.77	0.78	0.37
Rank [since 1948, scale of 1-69] 1=driest 69=wettest	17	63	42	38

The data in Table 3 indicates that the 2012 ozone season had maximum daily temperatures well above normal while 2013-2015 had maximum daily temperatures near normal (within a degree of normal). Average maximum temperatures during the 2012 ozone season were the third warmest from the period of record (1948-2016). Overall average ozone season temperatures during the 2012-2015 period ranged from 0.3 to 2.7 degrees above normal. Total precipitation during the 2012 ozone season was below normal, the 2013 ozone season had above

normal precipitation, and the 2014 and 2015 ozone seasons had near normal precipitation (within an inch of normal.) Therefore, the 2012-2015 period does not appear to have been abnormally conducive to reduced ozone formation and further supports the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

Federal measures enacted in recent years have resulted in permanent emission reductions in the Area. The federal measures that have been implemented include the following:

Tier 2 Vehicle and Fuel Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements.[14] These emission control requirements result in lower VOC and NOx emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NOx and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NOx and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NOx will

[14] Kentucky also identified Tier 3 Motor Vehicle Emissions and Fuel Standards a federal measure. EPA issued this rule in April 28, 2014 (79 FR 23414), which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. While the reductions did not aid the Area in attaining the standard, emissions reductions from these standards will occur during the maintenance period.

result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-Road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. The rule is being phased in between 2008 through 2015, and when fully implemented, will reduce emissions of NOx, VOC, particulate matter, and carbon monoxide from these engines. It is estimated that compliance with this rule will cut NOx emissions from non-road diesel engines by up to 90 percent nationwide.

Heavy-Duty Diesel Engine Rules. In July 2000[15], EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NOx, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NOx and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NOx and VOC emissions will decrease by 1,260,000 tons and 54,000 tons, respectively, and that 2030 NOx and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively.

Non-road Spark-Ignition Engines and Recreational Engines Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as

[15] *See* 66 FR 5002 for further discussion.

those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When all of the non-road spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NOx, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9648), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule is fully implemented in 2013, NOx and VOC emissions from these engines will be reduced by approximately 9,600 and 36,000 tons per year, respectively.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NOx emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NOx from these engines.

Clean Air Interstate Rule (CAIR)/Cross-State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce SO_2 and NOx emissions in 28 eastern states,

including Kentucky, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in *North Carolina* v. *EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in *North Carolina* v. *EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008) to preserve the environmental benefits provided by CAIR. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NOx emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Numerous parties filed petitions for review of CSAPR, and on August 21, 2012, the D.C. Circuit vacated and remanded CSAPR to EPA. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and ozone-season NOx CSAPR budgets as to a number of states.[16] *EME Homer City Generation, L.P.* v. *EPA*, 795 F.3d 118 (D.C. Cir. 2015). This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were

[16] The court's decision did not affect Kentucky's CSAPR budgets.

originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017.

On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NOx budgets. The update withdraws these remanded NOx budgets, sets new Phase 2 CSAPR ozone season NOx emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NOx trading program.[17]

While the reduction in NOx emissions from the implementation of CSAPR will result in lower concentrations of transported ozone entering the Area throughout the maintenance period, EPA is proposing to approve the redesignation of the Kentucky portion of the Area without relying on those measures within Kentucky as having led to attainment of the 2008 ozone NAAQS or contributing to maintenance of that standard. The improvement in ozone air quality in the Area from 2011 (a year when the design value for the area was above the NAAQS) to 2014 (a year when the design value was below the NAAQS) is not due to CSAPR emissions reductions because, as noted above, CSAPR did not go into effect until January 1, 2015, after the Area was already attaining the standard. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR. In addition, EPA has preliminarily

[17] *See* 81 FR 74504 for further discussion.

determined that the vast majority of reductions in emissions in the Kentucky portion of the Area from 2011-2014 were due to permanent and enforceable reductions in mobile source VOC and NOx emissions. EPA found that mobile source emissions reductions account for 100 percent of the total NOx reductions and 92 percent of the VOC reductions within the Kentucky portion of the Area over this time period. NOx and VOC emissions in the Kentucky portion of the Area are projected to continue their downward trend throughout the maintenance period, driven primarily by mobile source measures. From 2014 to 2030, Kentucky projected that mobile source measures will account for 95 percent of the NOx emissions reductions and 85 percent of the VOC reductions in the Kentucky portion of the Area based on EPA-approved mobile source modeling.

EPA proposes to find that the improvements in air quality in the Cincinnati-Hamilton, OH-KY-IN Area are due to real, permanent and enforceable reductions in NOx and VOC emissions. This preliminary determination is supported by the evaluation of emissions reductions in the Area between 2011 and 2014 discussed above.

Criteria (4) - ***The Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has a fully approved maintenance plan pursuant to section 175A of the CAA.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS, Kentucky

submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As discussed more fully below, EPA has preliminarily determined that Kentucky's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Kentucky SIP.

b. Attainment Emissions Inventory

As discussed above, EPA has determined that the Cincinnati-Hamilton, OH-KY-IN Area has attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-

year period from 2012-2014 and is continuing to attain the standard based on 2013-2015 data. *See* 81 FR 26697 (May 4, 2016); 81 FR 91035 (December 16, 2016). Kentucky selected 2014 as the attainment year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NOx and VOC, for which projected emissions could be developed for 2017, 2020, 2025, and 2030. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Kentucky began development of the attainment inventory by first generating a baseline emissions inventory for the Commonwealth's portion of the Area.[18] The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2030) to the attainment year (2014), Kentucky compared interim years to the attainment year to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: point, area, on-road mobile, and non-road mobile.[19] Complete descriptions of how the inventories were developed are located in Appendix C through Appendix E of the August 26, 2016 submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing approved emission factors. For each projected year's inventory, point sources are adjusted by growth factors based on Standard Industrial Classification codes generated using growth patterns

[18] Kentucky used the 2011 inventory described above in Section V.A. as its baseline emissions inventory.
[19] As discussed in Section V.A., the emissions inventories in Kentucky's submission identify aircraft emissions as a standalone category and refer to these emissions as "air emissions" for consistency with the inventories provided by Indiana and Ohio for their respective portions of the Area. EPA has included these emissions within the point source category per the AERR.

obtained from County Business Patterns. For title V sources, the actual 2011 emissions were used.

For area sources, emissions are estimated by multiplying an emission factor by some known indicator of collective activity such as production, number of employees, or population. For each projected year's inventory, area source emissions are changed by population growth, projected production growth, or estimated employment growth.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (e.g., lawn mowers, construction equipment, and railroad locomotives). IDEM provided non-road mobile source emissions data for each county in the Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

For on-road mobile sources, EPA's MOVES2014 mobile model was run to generate emissions. The MOVES2014 model includes the road class vehicle miles traveled (VMT) as an input file and can directly output the estimated emissions. For each projected year's inventory, the on-road mobile sources emissions are calculated by running the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected federal tailpipe standards, fleet turnover, and new fuels.

The 2014 NOx and VOC emissions for the Kentucky portion of the Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 4 and 5 of the following subsection discussing the maintenance demonstration. *See* Appendix C through Appendix E of the August 26, 2016, submission for more detailed information on the emissions inventory.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NOx and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2017, 2020, 2025, and 2030.

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NOx and VOC MVEBs were established for the last year (2030) of the maintenance plan (see section VI below). Kentucky, in consultation with the interagency partners,[20] has elected to also establish an interim MVEB for the year 2020.

(iv) Provides projected emissions inventories for the Kentucky portion of the Area, as shown in Tables 4 and 5, below.

Table 4. Projected Average Summer Day NOx Emissions (tsd) for the Kentucky Portion of the Area

Sector	2014	2017	2020	2025	2030
Point	9.62	9.97	10.33	9.61	8.98
Area	1.94	1.94	1.94	1.95	1.95
Non-road	1.84	1.47	1.26	1.03	0.8
On-road	14.04	10.13	6.19	4.45	2.69
Total	**27.44**	**23.51**	**19.72**	**17.04**	**14.42**

Table 5. Projected Average Summer Day VOC Emissions (tsd) for

[20] Interagency partners consist of the Ohio-Kentucky-Indiana Regional Council of Governments Metropolitan Planning Organization (MPO), Kentucky Energy and Environment Cabinet, Kentucky Transportation Cabinet, EPA, Federal Highway Administration, and Federal Transit Administration.

the Kentucky Portion of the Area

Sector	2014	2017	2020	2025	2030
Point	2.88	2.89	2.89	2.69	2.47
Area	6.25	6.04	5.94	5.87	5.80
Non-road	2.19	1.88	1.75	1.69	1.64
On-road	6.50	5.03	3.54	2.77	1.98
Total	**17.82**	**15.84**	**14.12**	**13.02**	**11.89**

Tables 4 and 5 summarize the 2014 and future projected emissions of NOx and VOC from the Kentucky portion of the Area. In situations where local emissions are the primary contributor to nonattainment, such as the Cincinnati-Hamilton, OH-KY-IN Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. Kentucky has projected emissions as described previously and determined that emissions in the Kentucky portion of the Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the Area met the NAAQS. Kentucky selected 2014 as the attainment emissions inventory year for the Kentucky portion of the Area. Kentucky calculated safety margins in its submittal for years 2020 and 2030.

The Commonwealth has decided to allocate 15 percent of the available safety margin to the 2020 and 2030 MVEBs to allow for unanticipated growth in VMT, changes and uncertainty

in vehicle mix assumptions, etc., that will influence the emission estimations. The MVEBs and safety margins are discussed further in Section VI of this proposed rulemaking.

d. Monitoring Network

There are eleven monitors measuring ozone in the Cincinnati-Hamilton, OH-KY-IN Area, of which two are located in the Kentucky portion of the Area. In its maintenance plan, Kentucky has committed to continue operation of the monitors in the Kentucky portion of the Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. EPA approved Kentucky's monitoring plan on October 25, 2016.

e. Verification of Continued Attainment

The Commonwealth of Kentucky, through DAQ, has the legal authority to enforce and implement the maintenance plan for the Kentucky portion of the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems. The Commonwealth has committed to track the progress of the maintenance plan by updating its emissions inventory at least once every three years and reviewing the updated emissions inventories for the Area using the latest emissions factors, models, and methodologies.

Under the AERR, DAQ is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. DAQ commits to compare the AERR inventories to the 2011

base year and 2030 projected maintenance year inventories to assess emissions trends, as necessary, and to assure continued compliance with the 2008 8-hour ozone NAAQS in the Area.

f. Contingency Measures in the Maintenance Plan.

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

As required by section 175A of the CAA, Kentucky has adopted a contingency plan to address possible future 8-hour ozone air quality problems. In the event that a measured value of the fourth highest maximum is 0.079 ppm or greater in any portion of the Area in a single ozone season, or if periodic emissions inventory updates reveal excessive or unanticipated growth greater than ten percent in ozone precursor emissions in the Area, the Commonwealth will conduct a study to determine whether the ozone value indicates a trend toward higher ozone values or whether the trend, if any, is likely to continue, and if so, the control measures necessary to reverse the trend. Implementation of necessary controls will take place as expeditiously as practicable and no later than 12 months from the conclusion of the most recent ozone season.

In the event that a two-year average of the fourth highest maximum values at a monitor in the Area is 0.076 ppm or greater and is not due to exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, Kentucky, along with the metropolitan planning organization or regional council of governments, will determine additional control measures needed to assure future attainment of the ozone NAAQS. Measures that can be implemented in a short time will be selected in order to be in place within 18 months from the close of the ozone season.

In the event of a monitored violation of the 1997 8-hour ozone NAAQS in the Area, Kentucky commits to adopt one or more of the following contingency measures to re-attain the standard:[21]

- Implementation of a program to require additional emissions reductions on stationary sources;
- Implementation of fuel programs, including incentives for alternative fuels;
- Restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles;
- Trip-reduction ordinances;
- Employer-based transportation management plans, including incentives;
- Programs to limit or restrict vehicle use in downtown areas, or other areas of emissions concentration, particularly during periods of peak use;

[21] If the Commonwealth adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.*, Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP)(September 2004).

- Programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

Kentucky may implement other contingency measures if new control programs should be developed and deemed more advantageous for the Area. Prior to the implementation of any contingency measure not listed, the Commonwealth will solicit input from all interested and affected parties in the Area. Kentucky will adopt and implement contingency measures as quickly as possible, and no later than 18 months after the monitored violation. The Commonwealth will not implement a contingency measure without approval from EPA.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes that the maintenance plan SIP revision submitted by Kentucky for the Commonwealth's portion of the Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's Analysis of Kentucky's Proposed NOx and VOC MVEBs for the Kentucky portion of the Area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a

transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs (or in this case sub-area MVEBs) for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB. Under 40 CFR 93.101, the term safety margin is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the

total emissions must remain below the attainment level. The NOx and $PM_{2.5}$ MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models.

As part of the interagency consultation process on setting MVEBs, DAQ held discussions with interagency partners to determine what years to set MVEBs for the Kentucky portion of the Area. As noted above, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2030). *See* 40 CFR 93.118.

Kentucky chose to allocate 15 percent of the available safety margin to the NOx and VOC MVEBs for years 2020 and 2030.[22] See Table 6. As discussed above, Kentucky has selected 2014 as the base year. The projected on-road emissions of NOx and VOC for 2020 and 2030 are shown in Tables 7 and 8 for the Kentucky portion of the Area. Table 9 provides the NOx and VOC MVEBs for 2020 and 2030.

Table 6. Fifteen Percent Safety Margin Allocation for the Kentucky Portion of the Cincinnati-Hamilton, OH-KY-IN Area (tsd)

	2020 Safety Margin	2020 Safety Margin Allocation	2030 Safety Margin	2030 Safety Margin Allocation
NOx	**7.72**	**1.16**	**13.02**	**1.95**
VOC	**3.77**	**0.56**	**6.00**	**0.89**

Table 7. On-Road NOx Emissions (tsd) for the Kentucky Portion of the Area

County	2014	2017	2020	2025	2030
Boone	5.46	3.94	2.41	1.73	1.05

[22] See pp. 22-34 of Kentucky's submittal for further information regarding the safety margin allocation.

Campbell	3.41	2.46	1.50	1.08	0.65
Kenton	5.17	3.73	2.28	1.64	0.99
Total	**14.04**	**10.13**	**6.19**	**4.45**	**2.69**

Table 8. On-Road VOC Emissions (tsd) for the Kentucky Portion of the Area

County	2014	2017	2020	2025	2030
Boone	2.53	1.96	1.38	1.08	0.77
Campbell	1.58	1.22	0.86	0.67	0.48
Kenton	2.39	1.85	1.30	1.02	0.73
Total	**6.05**	**5.03**	**3.54**	**2.77**	**1.98**

Table 9. MVEBs for the Kentucky Portion of the Area (tsd)

	2020		2030	
	NOx	**VOC**	**NOx**	**VOC**
Projected On-Road Emissions	6.19	3.54	2.69	1.98
Portion of the Safety Margin Allocated to MVEB	1.16	0.56	1.95	0.89
Conformity MVEB	7.35	4.10	4.64	2.87

Through this rulemaking, EPA is proposing to approve the MVEBs for NOx and VOC for 2020 and 2030 for the Kentucky portion of the Area because EPA has preliminarily determined that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Kentucky portion of the Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

VII. What is the Status of EPA's Adequacy Determination for the Proposed NOx and VOC MVEBs for the Kentucky Portion of the Area?

When reviewing submitted "control strategy" SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is

adequate for transportation conformity purposes, that MVEB must be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments - Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Kentucky's maintenance plan includes NOx and VOC MVEBs for the Kentucky portion of the Area for an interim year (2020) and the last year of the maintenance plan (2030). EPA is reviewing the NOx and VOC MVEBs through the adequacy process described in Section I.

EPA intends to make its determination on the adequacy of the 2020 and 2030 MVEBs for the Kentucky portion of the Area for transportation conformity purposes in the near future by

completing the adequacy process that was started on December 6, 2016. If EPA finds the 2020 and 2030 MVEBs adequate or approves them, the new MVEBs for NOx and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2020 through 2029, the 2020 MVEBs would then be used, and for years 2030 and beyond, the applicable budgets would be the new 2030 MVEBs established in the maintenance plan.

VIII. What is the Effect of EPA's Proposed Actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of Kentucky's redesignation request would change the legal designation of the portions of Boone, Campbell, and Kenton Counties that are within the Cincinnati-Hamilton, OH-KY-IN Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Kentucky's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2030 and a section 182(a)(1) base year emissions inventory for the Area into the Kentucky SIP. The maintenance plan establishes NOx and VOC MVEBs for 2020 and 2030 for the Kentucky portion of the Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations.

IX. Proposed Actions.

EPA is proposing to: (1) approve Kentucky's 2011 base year emissions inventory for the Kentucky portion of the Area as meeting the requirements of 182(a)(1) and incorporate this inventory into the SIP; (2) approve the maintenance plan for the Kentucky portion of the Area,

including the NOx and VOC MVEBs for 2030, and incorporate it into the Kentucky SIP; and (3) approve Kentucky's redesignation request for the 2008 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is describing the status of its adequacy determination for the NOx and VOC MVEBs for 2020 and 2030 in accordance with 40 CFR 93.118(f)(2). If EPA finds the 2020 and 2030 MVEBs adequate or approves them the transportation partners will need to demonstrate conformity to the new NOx and VOC MVEBs pursuant to 40 CFR 93.104(e)(3) within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the publication date for the final rule for this action, whichever is earlier.

If finalized, approval of the redesignation request would change the official designation of the portions of Boone, Campbell, and Kenton Counties that are within the Cincinnati-Hamilton, OH-KY-IN Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal

regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq*.

Dated: March 29, 2017

V. Anne Heard,

Acting Regional Administrator,

Region 4.

6560-50-P

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